UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

PATRICK HERMAN HORNUNG,

Plaintiff,

v.

WASHINGTON STATE
DEPARTMENT OF CORRECTIONS,

Defendant.

NO: 4:16-CV-5140-SMJ

ORDER DISMISSING ACTION

By Order filed January 3, 2017, the Court instructed Plaintiff to submit a

certified copy of his trust fund account statement (or institutional equivalent) for

the six-months immediately preceding the filing of the complaint as required by 28

U.S.C. § 1915(a)(2). In the alternative, Plaintiff was instructed that he could pay

the $400.00 fee ($350 filing fee and $50 administrative fee) to commence this

action. ECF No. 5.

Documents sent by electronic means to Plaintiff at the Washington State

Penitentiary on January 3, 2017, generated a notification that Plaintiff had been

released into a work release in Bremerton, Washington. The documents were then

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1 mailed to Plaintiff. Plaintiff has not complied with the Court's directive and has

2 filed nothing further in this action.

3   The Court must assume that Plaintiff has chosen to abandon this litigation.

4 Therefore, **IT IS ORDERED** this action is **DISMISSED WITHOUT**

5 **PRJEUDICE** for failure to prosecute, pursuant to Federal Rule of Civil Procedure

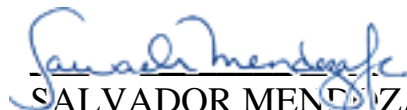6 41(b). *See, e.g.*, *Hickman v. Cty. of Butte*, 586 Fed. Appx. 296 (9th Cir. 2014)

7 (affirming the district court's dismissal without prejudice of plaintiff's action under

8 Rule 41(b) for failure to comply with a court order after plaintiff was warned that

9 such failure could result in dismissal) (citation permitted per 9th Cir. R. 36-3).

10   **IT IS SO ORDERED.** The Clerk's Office shall enter this Order, enter

11 judgment, forward a copy to Plaintiff at the Bremerton address provided, and close

12 the file.

13   **DATED** this 27th day of February 2017.

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15   _____
       SALVADOR MENDOZA, JR.
       United States District Judge

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